

JUDGE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,	)	No. CR16-5073RBL
	)	
Plaintiff,	)	DEFENSE MOTION TO CONTINUE
	)	TRIAL AND PRETRIAL MOTIONS
v.	)	DATES
	)	
DANIEL FRANEY,	)	
	)	<b>NOTED: March 25, 2016</b>
Defendant.	)	

Assistant Federal Public Defenders Linda Sullivan and Mohammad Ali Hamoudi, respectfully move the Court to continue the trial date in the above-captioned case from April 18, 2016, to a date convenient to the Court on or before December, 2016, with a new pretrial motions deadline set accordingly. Counsel believes under 18 U.S.C. § 3161(h) (7), the Court will find a continuance outweighs the best interests of the public and the defendant in a speedy trial.

This motion is unopposed by the government – as represented by Assistant United States Attorney Todd Greenberg.

1) Mr. Franey is charged by Indictment with Three Counts of Unlawful Possession of a Firearm(s) and Two Counts of Unlawful Possession of a Machinegun(s), in violation of 18 U.S.C. §§ 922(g)(8) and 922(o).

2) On February 6, 2016, Mr. Franey was arrested in Montessano, Washington on these charges, and made his initial appearance before the Honorable

1 Judge Karen L. Strombom on February 8, 2016 in Tacoma, Washington. Mr. Franey  
2 was ordered detained. On February 17, 2016 an Indictment was returned, and Mr.  
3 Franey was arraigned on February 29, 2016. Trial is presently set for April 18, 2016,  
4 with a pretrial motions due date of March 21, 2016.

5 3) To date, Assistant United States Attorney Todd Greenberg and counsel  
6 have conferred about the status and exchange of discovery in a productive and open  
7 manner. The government has begun to provide discovery; however, this is an unusual  
8 and complex case involving a lengthy investigation with several undercover agents.  
9 Additionally, the investigation in this case will cover multiple jurisdictions. The Court  
10 has entered a Protective Order governing the provision of discovery to defense counsel  
11 and the defendant. The government has indicated that the discovery will consist of  
12 hundreds of hours of tape recordings between undercover agents and the defendant, in  
13 addition to additional written reports and other discovery materials. The government  
14 has begun to provide discovery, and has also indicated that more discovery will be  
15 forthcoming, as some discovery requires redaction. Defense counsel will need  
16 additional time before trial to review all of the recordings and discovery materials and  
17 discuss the same with the defendant, who will have an opportunity to also review the  
18 materials at the Federal Detention Center.

19 4) Undersigned counsel will require additional time beyond the current trial  
20 date of April 18, 2016, to review the voluminous discovery and investigate all the  
21 factual allegations, locate and interview witnesses, conduct legal research and prepare  
22 and file pretrial motions, and prepare for trial.

23 For these reasons, the defense requests that the Court find:

24 (a) taking into account the exercise of due diligence, a failure to grant a  
25 continuance would deny counsel for the defendant the reasonable time necessary for  
26 effective preparation, due to counsel's need for more time to review the evidence,

1 consider possible defenses, and gather evidence material to the defense, as set forth in  
2 18 U.S.C. § 3161(h)(7)(B)(iv); and

3 (b) a failure to grant a continuance would likely result in a miscarriage of  
4 justice, as set forth in 18 U.S.C. § 3161(h)(7)(B)(i); and

5 (c) the additional time requested is a reasonable period of delay, as counsel has  
6 requested more time to prepare for trial, to investigate the matter, to gather evidence  
7 material to the defense, and to consider possible defenses; and

8 (d) the Government has produced discovery that will require additional time to  
9 review and conduct follow-up investigation. The case is sufficiently complex that it is  
10 unreasonable to expect adequate preparation for pretrial proceedings or the trial itself  
11 within the current trial schedule, as set forth in 18 U.S.C. § 3161(h)(7)(B)(ii); and

12 (e) the ends of justice will best be served by a continuance, and the ends of  
13 justice outweigh the best interests of the public and the defendant in a speedy trial, as  
14 set forth in 18 U.S.C. § 3161(h)(7)(A); and

15 (f) the additional time requested between the current trial date of April 18, 2016,  
16 and the new trial is necessary to provide counsel for the defendant reasonable time to  
17 prepare for trial considering counsel's schedule and all of the facts set forth above.

18 Mr. Franey indicates that he understands the nature and amount of discovery  
19 that needs to be reviewed and the trial preparation that needs to occur, however, he  
20 would not agree to a continuance of the trial date.

21 Therefore, the defense respectfully requests the court to find a continuance of the  
22 trial date outweigh the best interests of the public and the defendant, and the trial date  
23 be continued to a date prior to December, 2016, and a new pretrial motions due date  
24 consistent with the trial date.

1       The defense further asks the Court to exclude the time period from the date of  
2 the Court's order to the new trial date for purposes of computing the time limitations  
3 imposed by the Speedy Trial Act.

4       DATED this 16th day of March, 2016.

5                               Respectfully submitted,

6                               *s/ Linda Sullivan*

7                               *s/ Mohammad Hamoudi*

8                               Assistant Federal Public Defenders

9                               Attorney for Daniel Franey  
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**CERTIFICATE OF SERVICE**

I hereby certify that on March 16, 2016, I electronically filed the foregoing Defense Motion to Continue Trial and PreTrial Motions Due Date and Proposed Order with the Clerk of the Court using the CM/ECF system, which will send notification of filing to all registered parties.

*s/ Amy Strickling*  
Paralegal, Federal Public Defender Office